

Executive Summary – Enforcement Matter – Case No. 44023
City of Harlingen Waterworks System
RN101613362
Docket No. 2012-0893-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Harlingen Wastewater Treatment Plant 2, located approximately 0.25 mile south of the intersection of East Harrison Avenue (Farm-to-Market Road 106) and 56th Street, and 2.5 miles east of the intersection of Business Highway 77 and East Harrison Avenue in Harlingen, Cameron County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 28, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$16,362

Amount Deferred for Expedited Settlement: \$3,272

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$490

Total Due to General Revenue: \$12,600

Payment Plan: 35 payments of \$360 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 44023
City of Harlingen Waterworks System
RN101613362
Docket No. 2012-0893-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 19, 2012

Date(s) of NOE(s): April 3, 2012

Violation Information

Failed to comply with the permitted effluent limitations for ammonia nitrogen [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010490003, issued April 28, 2006, Interim Effluent Limitations and Monitoring Requirements No. 1, and TPDES Permit No. WQ0010490003, issued March 31, 2011, Interim I Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010490003, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jennifer Graves, Enforcement Division, Enforcement Team 1, MC R-15, (956) 430-6023; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Chris Boswell, Mayor, City of Harlingen Waterworks System, Post Office Box 1950, Harlingen, Texas 78551

Darrell Gunn, General Manager, City of Harlingen Waterworks System, Post Office Box 1950, Harlingen, Texas 78551

Executive Summary – Enforcement Matter – Case No. 44023
City of Harlingen Waterworks System
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Docket No. 2012-0893-MWD-E

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	9-Apr-2012	Screening	20-Apr-2012	EPA Due	5-Sep-2012
	PCW	25-Apr-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Harlingen Waterworks System
Reg. Ent. Ref. No.	RN101613362
Facility/Site Region	15-Harlingen
Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	44023	No. of Violations	1
Docket No.	2012-0893-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jennifer Graves
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$5,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **87.0%** Enhancement **Subtotals 2, 3, & 7** **\$4,350**

Notes Enhancement for 13 months of self-reported effluent violations, four NOV's with same/similar violations, and one NOV with dissimilar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$4,045**
Approx. Cost of Compliance **\$30,000**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$9,350**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$9,350**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$9,350**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,870**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$7,480**

Screening Date 20-Apr-2012

Docket No. 2012-0893-MWD-E

PCW

Respondent City of Harlingen Waterworks System

Policy Revision 2 (September 2002)

Case ID No. 44023

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613362

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	17	85%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 87%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for 13 months of self-reported effluent violations, four NOVs with same/similar violations, and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 87%

Screening Date 20-Apr-2012

Docket No. 2012-0893-MWD-E

PCW

Respondent City of Harlingen Waterworks System

Policy Revision 2 (September 2002)

Case ID No. 44023

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613362

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010490003, issued April 28, 2006, Interim Effluent Limitations and Monitoring Requirements No. 1, and TPDES Permit No. WQ0010490003, issued March 31, 2011, Interim I Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review on March 19, 2012, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

59 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

Two quarterly events are recommended for the quarters containing the months of February and July 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4,045

Violation Final Penalty Total \$9,350

This violation Final Assessed Penalty (adjusted for limits) \$9,350

Economic Benefit Worksheet

Respondent City of Harlingen Waterworks System

Case ID No. 44023

Reg. Ent. Reference No. RN101613362

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$30,000	28-Feb-2011	31-Jan-2013	1.93	\$193	\$3,852	\$4,045
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct an evaluation of the wastewater treatment system to determine the cause of noncompliance. Date required is the initial month of noncompliance. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$30,000

TOTAL

\$4,045



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	9-Apr-2012	Screening	20-Apr-2012	EPA Due	5-Sep-2012
	PCW	15-Oct-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Harlingen Waterworks System		
Reg. Ent. Ref. No.	RN101613362		
Facility/Site Region	15-Harlingen	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	44023	No. of Violations	1
Docket No.	2012-0893-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jennifer Graves
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$3,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **87.0%** Enhancement **Subtotals 2, 3, & 7** **\$3,262**

Notes: Enhancement for 13 months of self-reported effluent violations, four NOV's with same/similar violations, and one NOV with dissimilar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$0
Approx. Cost of Compliance \$0
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$7,012**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$7,012**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$7,012**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,402**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$5,610**

Screening Date 20-Apr-2012

Docket No. 2012-0893-MWD-E

PCW

Respondent City of Harlingen Waterworks System

Policy Revision 3 (September 2011)

Case ID No. 44023

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101613362

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	17	85%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 87%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for 13 months of self-reported effluent violations, four NOVs with same/similar violations, and one NOV with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 87%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 87%

Screening Date 20-Apr-2012

Docket No. 2012-0893-MWD-E

PCW

Respondent City of Harlingen Waterworks System

Policy Revision 3 (September 2011)

Case ID No. 44023

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101613362

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010490003, issued March 31, 2011, Interim I Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with the permitted effluent limitations, as documented during a record review on March 19, 2012, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

92 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,750

One quarterly event is recommended for the quarter containing the months of October, November, and December 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$7,013

This violation Final Assessed Penalty (adjusted for limits) \$7,013

Economic Benefit Worksheet

Respondent City of Harlingen Waterworks System

Case ID No. 44023

Reg. Ent. Reference No. RN101613362

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit for Violation No. 1 on accompanying Penalty Calculation Worksheet.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

EFFLUENT VIOLATION TABLE				
City of Harlingen Waterworks System				
TPDES Permit No. WQ0010490003				
Docket No. 2012-0893-MWD-E				
Months	NH ₃ -N Daily Avg. Conc.	NH ₃ -N Daily Max. Conc.	NH ₃ -N Daily Avg. Loading*	NH ₃ -N Daily Avg. Loading**
	Limit = 3.0 mg/L	Limit = 10 mg/L	Limit = 188 lbs/day	Limit = 181 lbs/day
February 2011	7.36	15.6	341	N/A
July 2011	3.12	15.1	N/A	585.3
October 2011	3.78	c	N/A	c
November 2011	3.78	c	N/A	c
December 2011	3.57	c	N/A	c
NH ₃ -N = ammonia nitrogen			mg/L = milligrams per liter	
Avg. = Average			lbs/day = pounds per day	
Conc. = Concentration			N/A = Not Applicable	
Max. = Maximum			c = compliant	
* = permit issued April 28, 2006			** = permit issued March 31, 2011	

Compliance History Report

Customer/Respondent/Owner-Operator: CN602593055 City of Harlingen Waterworks System Classification: AVERAGE Rating: 1.82
 Regulated Entity: RN101613362 HARLINGEN WASTEWATER TREATMENT PLANT 2 Classification: AVERAGE Site Rating: 1.10

ID Number(s): WASTEWATER PERMIT WQ0010490003
 WASTEWATER EPA ID TX0047929
 PRETREATMENT EPA ID TX0047929000
 PRETREATMENT PERMIT WQ0010490003
 WASTEWATER LICENSING LICENSE WQ0010490003

Location: APPROX 0.25 MI S OF THE INTX OF E HARRISON AVE (FM 106)
 AND 56TH ST AND 2.5 MI E OF THE INTX OF BUSINESS HWY 77 & E
 HARRISON AVE IN HARLINGEN, CAMERON CO, TX

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: June 26, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 26, 2007 to June 26, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jennifer Graves Phone: (956) 430-6023

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 04/23/2007 (581010)
- 2 05/21/2007 (581013)
- 3 06/21/2007 (581016)
- 4 07/20/2007 (608090)
- 5 09/24/2007 (608091)
- 6 10/22/2007 (608092)
- 7 05/15/2008 (640837)

8	09/08/2008	(688691)
9	02/19/2008	(752217)
10	02/20/2009	(752218)
11	03/23/2009	(752219)
12	03/17/2008	(752220)
13	04/16/2008	(752221)
14	05/19/2008	(752222)
15	06/19/2008	(752223)
16	12/06/2007	(752224)
17	07/21/2008	(752225)
18	08/25/2008	(752226)
19	09/19/2008	(752227)
20	10/14/2008	(752228)
21	11/15/2007	(752229)
22	11/24/2008	(752230)
23	01/02/2008	(752231)
24	12/22/2008	(752232)
25	01/22/2008	(752233)
26	01/20/2009	(752234)
27	02/11/2008	(758998)
28	08/14/2009	(761969)
29	04/14/2009	(769891)
30	04/23/2009	(769892)
31	05/28/2010	(801517)
32	02/22/2010	(809302)
33	05/27/2009	(809303)
34	06/18/2009	(809304)
35	08/19/2009	(809305)
36	09/22/2009	(809306)
37	09/19/2009	(809307)

38	11/23/2009	(809308)
39	12/21/2009	(809309)
40	01/25/2010	(809310)
41	03/19/2010	(832537)
42	04/19/2010	(832538)
43	05/20/2010	(845200)
44	06/17/2010	(846785)
45	11/01/2010	(864458)
46	07/23/2010	(867466)
47	08/23/2010	(867467)
48	09/16/2010	(874485)
49	10/28/2010	(882065)
50	12/28/2010	(888526)
51	12/17/2010	(896876)
52	01/21/2011	(902827)
53	02/24/2011	(909671)
54	03/14/2011	(926682)
55	04/18/2011	(926683)
56	05/20/2011	(938607)
57	06/16/2011	(945977)
58	06/16/2011	(953235)
59	08/12/2011	(959875)
60	09/16/2011	(965916)
61	10/14/2011	(971958)
62	11/14/2011	(978123)
63	12/09/2011	(984894)
64	01/09/2012	(991182)
65	04/04/2012	(994702)
66	02/09/2012	(998548)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 09/30/2007 (608092) CN602593055
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/11/2008 (758998) CN602593055
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 05/31/2008 (752223) CN602593055
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2008 (752226) CN602593055
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/25/2008 (688691) CN602593055
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES 0047929 OP
 Description: Failure to maintain an Ammonia Nitrogen Daily Max of 10 mg/l or less. For September 2007, the facility reported an Ammonia nitrogen Daily Max of 36.9 mg/l.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.2
 PERMIT WQ0010490003 OP
 Description: Failure to prevent an unauthorized discharge of wastewater or any other waste.

Date: 08/31/2008 (752227) CN602593055
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/14/2009 (761969) CN602593055
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES Permit No.: 10490-003 OP
 Description: Failure to prevent the unauthorized discharge of wastewater of any other waste.

Date: 01/31/2010 (809302) CN602593055
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2010 (832537) CN602593055
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 05/28/2010 (801517) CN602593055

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
2D TWC Chapter 26, SubChapter A 26.121(a)(1)
2D TWC Chapter 26, SubChapter A 26.121(a)(3)
2D TWC Chapter 26, SubChapter A 26.121(b)
2D TWC Chapter 26, SubChapter A 26.121(c)
2D TWC Chapter 26, SubChapter A 26.121(d)
2D TWC Chapter 26, SubChapter A 26.121(e)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
Permit COnditions, 2., g., Page 7. PERMIT
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)(2)

Description: Failure to prevent the unauthorized discharge of wastewater into or adjacent to any waters in the state.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 210, SubChapter B 210.25(b)
30 TAC Chapter 210, SubChapter B 210.25(b)(1)
30 TAC Chapter 210, SubChapter B 210.25(b)(2)
Authorization for Reclaimed Water PERMIT

Description: Failure to post appropriate signs at the reclaim water use site.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 210, SubChapter A 210.4(a)(4)
30 TAC Chapter 210, SubChapter A 210.4(a)(4)(A)
30 TAC Chapter 210, SubChapter A 210.4(a)(4)(B)
30 TAC Chapter 210, SubChapter A 210.4(a)(4)(C)
30 TAC Chapter 210, SubChapter A 210.4(a)(4)(D)
30 TAC Chapter 210, SubChapter A 210.4(a)(4)(E)
30 TAC Chapter 210, SubChapter A 210.4(a)(4)(F)
30 TAC Chapter 210, SubChapter A 210.4(a)(4)(G)
Authorization for Reclaimed Water PERMIT

Description: Failure to have a reclaim water operation and maintenance plan on site by both the producer and the user.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Sludge Provisions, Section IV, PERMIT

Description: Failure to conduct methane monitoring as required on the permit.

Date: 07/31/2010 (867467) CN602593055

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2010 (882065) CN602593055

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2011 (926682) CN602593055

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 04/15/2011 (894856) CN602593055
 Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 2D TWC Chapter 26, SubChapter A 26.121(a)(3)
 2D TWC Chapter 26, SubChapter A 26.121(b)
 2D TWC Chapter 26, SubChapter A 26.121(c)
 2D TWC Chapter 26, SubChapter A 26.121(d)
 2D TWC Chapter 26, SubChapter A 26.121(e)
 30 TAC Chapter 305, SubChapter F 305.125(4)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 TWC Chapter 26 26.121
 TWC Chapter 26 26.121(a)(2)
 TX0047929 PERMIT
 Description: Failure to prevent unauthorized discharges at the plant or in the collection system into or adjacent to waters of the state.

Date: 07/31/2011 (959875) CN602593055
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2011 (978123) CN602593055
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2011 (984894) CN602593055
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2011 (991182) CN602593055
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF HARLINGEN
WATERWORKS SYSTEM
RN101613362**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-0893-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Harlingen Waterworks System ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located approximately 0.25 mile south of the intersection of East Harrison Avenue (Farm-to-Market Road 106) and 56th Street, and 2.5 miles east of the intersection of Business Highway 77 and East Harrison Avenue in Harlingen, Cameron County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 8, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Sixteen Thousand Three Hundred Sixty-Two Dollars (\$16,362) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Hundred Ninety Dollars (\$490) of the administrative penalty and Three Thousand Two Hundred Seventy-Two Dollars (\$3,272) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Twelve Thousand Six Hundred Dollars (\$12,600) of the administrative penalty shall be payable in 35 monthly payments of Three Hundred Sixty Dollars (\$360) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010490003, issued April 28, 2006, Interim Effluent Limitations and Monitoring Requirements No. 1, and TPDES Permit No. WQ0010490003, issued March 31, 2011, Interim I Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review on March 19, 2012, and shown in the table below:

EFFLUENT VIOLATION TABLE				
Months	NH ₃ -N Daily Avg. Conc.	NH ₃ -N Daily Max. Conc.	NH ₃ -N Daily Avg. Loading*	NH ₃ -N Daily Avg. Loading**
	Limit = 3.0 mg/L	Limit = 10 mg/L	Limit = 188 lbs/day	Limit = 181 lbs/day
February 2011	7.36	15.6	341	N/A
July 2011	3.12	15.1	N/A	585.3
October 2011	3.78	c	N/A	c
November 2011	3.78	c	N/A	c
December 2011	3.57	c	N/A	c
NH ₃ -N = ammonia nitrogen Avg. = Average Conc. = Concentration Max. = Maximum * = permit issued April 28, 2006			mg/L = milligrams per liter lbs/day = pounds per day N/A = Not Applicable c = compliant ** = permit issued March 31, 2011	

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Harlingen Waterworks System, Docket No. 2012-0893-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010490003, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

2/19/13

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

10-25-12

Date

DARNELL GUNN

Name (Printed or typed)
Authorized Representative of
City of Harlingen Waterworks System

GIVEN MGR

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.